

### **REMARKS**

Claims 28–33 and 35–41, as amended, and new claims 42–45 are pending in this application. In this Response, Applicants have amended certain claims because Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

In particular, independent claims 28 and 35 have been rewritten to clarify the invention. In addition, new claims 42–45 have been added to recite additional embodiments fully supported by the Written Description. *See, e.g.*, Page 29, lines 8–27. Finally, the Written Description has been amended to update the status of the parent application.

As no new matter has been added by the amendments herein, Applicants respectfully request entry of these amendments at this time.

### **THE REJECTIONS UNDER 35 U.S.C. § 103**

Claims 28–33 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,981,658 to Rajagopalan *et al.* in view of U.S. Patent No. 5,803,831 to Sullivan *et al.* for the reasons provided on pages 2–3 of the Office Action. The cited combination does not disclose or suggest the present invention for at least the reasons that follow.

Rajagopalan generally discloses golf ball compositions including non-ionic olefinic copolymers produced by the use of metallocene catalysts, which may be blended with ionomers, non-grafted metallocene catalyzed polymers, *or* other non-ionic polymers. *See* Abstract. According to the Examiner, Rajagopalan does not provide any instructions regarding the relative hardness of the mantle (*i.e.*, the inner cover) and outer cover or specific mantle compositions. Rajagopalan does not disclose or suggest blends of grafted metallocene-catalyzed polymers, ionomers, *and* non-ionomers including an acid-containing ethylene copolymer, as presently recited. In addition, the non-ionomers disclosed by Rajagopalan do not include the acid-containing ethylene copolymers presently recited. *See* Col. 14, lines 27–56.

Furthermore, while the Examiner has noted that Sullivan suggests that the outer cover can be a metallocene polyolefin and blends of ionomers and non-ionomers, Sullivan also does not disclose a blend that includes metallocene-catalyzed polymers, ionomers, *and* non-ionomers including an acid-containing ethylene copolymer, as presently recited. Instead, Sullivan teaches a cover that can be formed from a blend of ionomeric and non-ionomeric

materials, with the non-ionomeric materials being limited to thermoplastic and thermoset polyurethanes, polyamides, polyester amides, cross-linked metallocene catalyzed polyolefins, and polyester elastomers. Col. 21, line 65 to Col. 23, line 30. Thus, a skilled artisan would not have found it obvious to arrive at the present invention based on the combination of Rajagopalan and Sullivan without the present invention to use as a template.

For at least the reasons above, the combination of Rajagopalan and Sullivan does not disclose or suggest the present invention. As such, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection based thereon.

### **DOUBLE PATENTING REJECTIONS**

#### **Statutory Double Patenting**

Claim 35 was rejected under 35 U.S.C. § 101 based on claim 17 of U.S. Patent No. 6,414,082. In light of the amendments to claim 35, Applicants respectfully submit that this rejection is overcome.

#### **Non-Statutory Double Patenting**

The Examiner also rejected claims 28-33 under the judicially created doctrine of obviousness-type double patenting as obvious over claims 1-30 of U.S. Patent No. 6,653,403. In addition claims 35-41 were rejected under the judicially created doctrine of obviousness-type double patenting as obvious over claims 1-40 of U.S. Patent No. 6,414,082, claims 1-33 of U.S. Patent No. 5,981,658 (Rajagopalan), and claims 1-25 of U.S. Patent No. 6,384,136. Applicants submit herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) in order to overcome the double patenting rejections based on U.S. Patent Nos. 6,653,403, 6,414,082, and 6,384,136. As such, Applicants respectfully submit that the double patenting rejections based on these patents is overcome.

With regard to the double patenting rejection based on claims 1-33 of U.S. Patent No. 5,981,658 (Rajagopalan), Applicants respectfully disagree with the Examiner's rejection for the similar reasons as discussed above regarding the § 103 rejection. For example, the claims of Rajagopalan cover blends including grafted metallocene catalyzed polymers and ionomers. The blends of the present invention, *i.e.*, grafted metallocene-catalyzed polymers, ionomers, *and* non-ionomers including an acid-containing ethylene copolymer, are not recited. Since, as discussed above, Rajagopalan does not disclose the presently recited non-ionomeric material included in the claimed blend, even if the Examiner looked to the Written Description of the Rajagopalan patent to support the obviousness-type double patenting

rejection, the Written Description provides no basis for such a rejection.<sup>1</sup> Thus, Applicants respectfully request that the double patenting rejection based on be withdrawn.

#### **ATTORNEY DOCKET NUMBER**

Applicants submit a Request for Change in Attorney Docket Number in order to reflect the change from 20002.0095A to 20002.0348. Applicants respectfully request recognition of this change in future correspondence relating to this application.

#### **CONCLUSION**

All claims are believed to be in condition for allowance. If the Examiner believes that the present amendments still do not resolve all of the issues regarding patentability of the pending claims, Applicants invite the Examiner to contact the undersigned attorneys to discuss any remaining issues.

A Petition for Extension of Time is submitted herewith to extend the time for response two months to and including August 29, 2005. A Fee Sheet Transmittal is also submitted herewith to pay for the Terminal Disclaimer. No other fees are believed to be due for this amendment. Should any fee be required, however, please charge such fee to Swidler Berlin LLP Deposit Account No. 195127, Order No. 20002.0348.

Respectfully submitted,  
SWIDLER BERLIN LLP

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By: Stephanie D. Scruggs  
Stephanie D. Scruggs, Registration No. 54,432  
SWIDLER BERLIN LLP  
3000 K Street, NW, Suite 300  
Washington, D.C. 20007  
(202) 424-7755 Telephone  
(202) 295-8478 Facsimile

<sup>1</sup> While the Examiner is not precluded from using the patent disclosure of Rajagopalan in making a double patenting rejection, only select portions of the Written Description may be used for an obviousness-type double patenting analysis. For example, as set forth in MPEP § 804(2)(B)(1), the Written Description can be used to learn the meaning of a term in the claims. In addition, the Examiner may consider portions of the Written Description that provide direct support for the patent claims in Rajagopalan. *In re Vogel*, 422 F.2d 438, 441-442 (CCPA 1970).